

(g) Lessee or his authorized representative shall file with the Superintendent a report on each settlement agreement, setting out the nature and location of the damage, date, and amount of the settlement, and any other pertinent information.

[39 FR 22254, June 21, 1974, as amended at 41 FR 50649, Nov. 17, 1976. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 55 FR 33115, Aug. 14, 1990]

EDITORIAL NOTE: At 55 FR 33115, Aug. 14, 1990, the Bureau of Indian Affairs published a document amending § 226.21(f) by removing the word “forthwith” from the first sentence and adding the word “forthwith” to follow directly after the word “served”; however, because these terms do not exist in the first sentence, this amendment could not be incorporated.

§ 226.22 Prohibition of pollution.

(a) All operators, contractors, drillers, service companies, pipe pulling and salvaging contractors, or other persons, shall at all times conduct their operations and drill, equip, operate, produce, plug and abandon all wells drilled for oil or gas, service wells or exploratory wells (including seismic, core and stratigraphic holes) in a manner that will prevent pollution and the migration of oil, gas, salt water or other substance from one stratum into another, including any fresh water bearing formation.

(b) Pits for drilling mud or deleterious substance used in the drilling, completion, recompletion, or workover of any well shall be constructed and maintained to prevent pollution of surface and subsurface fresh water. These pits shall be enclosed with a fence of at least four strands of barbed wire, or an approved substitute, stretched taut to adequately braced corner posts, unless the surface owner, user, or the Superintendent gives consent to the contrary. Immediately after completion of operations, pits shall be emptied and leveled unless otherwise requested by surface owner or user.

(c) Drilling pits shall be adequate to contain mud and other material extracted from wells and shall have adequate storage to maintain a supply of mud for use in emergencies.

(d) No earthen pit, except those used in the drilling, completion, recompletion or workover of a well, shall be

constructed, enlarged, reconstructed or used without approval of the Superintendent. Unlined earthen pits shall not be used for the continued storage of salt water or other deleterious substances.

(e) Deleterious fluids other than fresh water drilling fluids used in drilling or workover operations, which are displaced or produced in well completion or stimulation procedures, including but not limited to fracturing, acidizing, swabbing, and drill stem tests, shall be collected into a pit lined with plastic of at least 30 mil or a metal tank and maintained separately from above-mentioned drilling fluids to allow for separate disposal.

[39 FR 22254, June 21, 1974. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 55 FR 33115, Aug. 14, 1990]

§ 226.23 Easements for wells off leased premises.

The Superintendent, with the consent of the Osage Tribal Council, may grant commercial and noncommercial easements for wells off the leased premises to be used for purposes associated with oil and gas production. Rental payable to the Osage Tribe for such easements shall be an amount agreed to by Grantee and the Osage Tribal Council subject to the approval of the Superintendent. Grantee shall be responsible for all damages resulting from the use of such wells and settlement therefor shall be made as provided in § 226.21.

[39 FR 22254, June 21, 1974. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 55 FR 33115, Aug. 14, 1990]

§ 226.24 Lessee's use of water.

Lessee or his contractor may, with the approval of the Superintendent, use water from streams and natural water courses to the extent that same does not diminish the supply below the requirements of the surface owner from whose land the water is taken. Similarly, Lessee or his contractor may use water from reservoirs formed by the impoundment of water from such streams and natural water courses, provided such use does not exceed the quantity to which they originally would have been entitled had the reservoirs not been constructed. Lessee or

his contractor may install necessary lines and other equipment within the Osage Mineral Estate to obtain such water. Any damage resulting from such installation shall be settled as provided in § 226.21.

§ 226.25 Gas well drilled by oil lessees and vice versa.

Prior to drilling, the oil or gas lessee shall notify the other lessees of his/her intent to drill. When an oil lessee in drilling a well encounters a formation or zone having indications of possible gas production, or the gas lessee in drilling a well encounters a formation or zone having indication of possible oil production, he/she shall immediately notify the other lessee and the Superintendent. Lessee drilling the well shall obtain all information which a prudent operator utilizes to evaluate the productive capability of such formation or zone.

(a) *Gas well to be turned over to gas lessee.* If the oil lessee drills a gas well, he/she shall, without removing from the well any of the casing or other equipment, immediately shut the well in and notify the gas lessee and the Superintendent. If the gas lessee does not, within 45 days after receiving notice and cost of drilling, elect to take over such well and reimburse the oil lessee the cost of drilling, including all damages paid and the cost in-place of casing, tubing, and other equipment, the oil lessee shall immediately confine the gas to the original stratum. The disposition of such well and the production therefrom shall then be subject to the approval of the Superintendent. In the event the oil lessee and gas lessee cannot agree on the cost of the well, such cost shall be apportioned between the oil and gas lessee by the Superintendent. If such apportionment is not accepted, the well shall be plugged by the oil and gas lessee who drilled the well.

(b) *Oil well to be turned over to oil lessee.* If the gas lessee drills an oil well, he/she shall immediately, without removing from the well any of the casing or other equipment, notify the oil lessee and the Superintendent. If the oil lessee does not, within 45 days after receipt of notice and cost of drilling, elect to take over the well, he/she shall

immediately notify the gas lessee, and the disposition of such well and the production therefrom shall be subject to the approval of the Superintendent. Should the oil lessee elect to take over the well, he/she shall pay the gas lessee the cost of drilling the same, including all damages paid and cost in-place of casing and other equipment. In the event the oil lessee and gas lessee cannot agree on the cost of the well, such cost shall be apportioned between the oil and gas lessee by the Superintendent. If such apportionment is not accepted, the well shall be plugged by the oil and gas lessee who drilled the well.

(c) *Lands not leased.* If the gas lessee shall drill an oil well upon lands not leased for oil purposes or vice versa, the Superintendent may, until such time as said lands are leased, permit the lessee who drilled the well to operate and market the production therefrom. When said lands are leased, the lessee who drilled and completed the well shall be reimbursed by the oil or gas lessee, for the cost of drilling said well, including all damages paid and the cost in-place of casing, tubing, and other equipment. If the lessee does not elect to take over said well as provided above, the disposition of such well and the production therefrom shall be determined by the Superintendent. In the event the oil lessee and gas lessee cannot agree on the cost of the well, such cost shall be apportioned between the oil and gas lessee by the Superintendent. If such apportionment is not accepted, the well shall be plugged by the oil and gas lessee who drilled the well.

[39 FR 22254, June 21, 1974. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 55 FR 33115, Aug. 14, 1990]

EDITORIAL NOTE: At 55 FR 33115, Aug. 14, 1990, the Bureau of Indian Affairs published a document amending § 226.25(b) by removing in the third sentence the word "the" before the word "receipt", removing the word "such" before the word "notice", removing the words "notice of the," and in the fourth sentence inserting the word "casing" preceding and followed by commas after the word "tubing"; however, because these terms do not exist in the third and fourth sentences, this amendment could not be incorporated.

§ 226.26 Determining cost of well.

The term "cost of drilling" as applied where one lessee takes over a well